

COMMISSION OF THE EUROPEAN COMMUNITIES

COM(81) 625 final

Brussels, 5 November 1981

Proposal for a

COUNCIL REGULATION (EEC)

amending Regulation (EEC) No 876/68 as regards the general rules
applicable to tendering procedures for the award of export refunds
on milk products

(submitted to the Council by the Commission)

COM(81) 625 final

EXPLANATORY MEMORANDUM

1. On 30 December 1980 the Commission presented to the Council a proposal for a Regulation amending Regulation(EEC) No 804/68 (COM(80) 871 final) so as to provide the legal basis for the granting of export refunds via tendering procedures in the milk and milk products sector.

The proposed new version of Article 17(3) of Regulation (EEC) No 804/68 provides that the Council, acting by a qualified majority on a proposal from the Commission, should adopt the general rules applicable to the award of refunds under the tender system.

2. The proposal having been discussed on several occasions within the Council, the Commission was requested to submit to the Council, in the light of the discussions which had taken place, a formal proposal for general rules on the application of the new method, so that the Council could examine and, if appropriate, adopt the two proposals at the same time.

3. The attached proposal for a regulation is intended to meet this request. It takes account of the various points raised, and in

particular the suggestion that the new method of fixing refunds should apply only to products of a relatively uniform nature which are exported in bulk (butter, butter oil and milk powder).

It may also prove necessary, depending on the quantities available, either to restrict exports to certain non-member countries where the potential market is very large or to set aside quantities for export to certain destinations. Provision should therefore be made so that the terms of the tendering procedure may specify in advance the quantities and/or non-member countries in respect of which the refund is to be fixed.

4. Where the refund is to be fixed by a tendering procedure for one or more products and for all destinations, it may be necessary to limit or to cancel altogether the "normal" refund fixed in accordance with Article 17(2) of Regulation (EEC) No 804/68. The same applies to refunds fixed via a tendering procedure for a product which is to be exported to one or more specific destinations.

5. Apart from the proposed specific rules, most of the general rules contained in Council Regulation (EEC) 876/68 may also be applied to the fixing of refunds by a tender system, including the rules relating to the adjustment of refunds fixed in advance should there be any change in the intervention prices. It is therefore proposed that the above-mentioned Regulation should be supplemented by the said specific rules rather than replaced by a new regulation.

Proposal for a
COUNCIL REGULATION (EEC)

amending Regulation (EEC) No 876/68 as regards the general rules applicable to
tendering procedures for the award of export refunds on milk products

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 804/68 of 27 June 1968 on the common
organization of the market in milk and milk products¹, as last amended by Regulation
(EEC) No /81², and in particular Article 17(3) thereof,

Having regard to the proposal from the Commission,

Whereas Article 17(3) of Regulation (EEC) No 804/68 now provides that export refunds on
milk products may be awarded via a tendering procedure, where such a procedure is neces-
sary for reasons of commercial policy, with a view to keeping closer quantitative checks
on exports qualifying for refunds and/or in order to ensure that no more than the necessary
amount is paid as a refund; whereas general rules for the application of this procedure
should be adopted and the relevant amendments made to Council Regulation (EEC) No 876/68
of 28 June 1968 laying down general rules for granting export refunds on milk and milke
products and criteria for fixing the amount of such refunds³, as last amended by Regulation
(EEC) No 2429/72⁴;

Whereas the tendering procedure is not suitable for fixing the refunds on products which are exported in a wide range of varieties; whereas, therefore, this system should not apply to products in small packages, branded products or the various types of cheese; whereas, on the other hand, in the case of products exported in bulk such as butter, butteroil and skimmed milk powder, the tendering procedure may

¹OJ No L 148, 28.6.1968, p. 13.

²OJ No L

³OJ No L 155, 3.7.1968, p. 1.

⁴OJ No L 264, 23.11.1972, p.1.

6

in certain circumstances provide an appropriate means of fixing the refund at a level which reflects the real market situation as faithfully as possible and of keeping closer quantitative checks on the products concerned, account being taken of availabilities;

Whereas, should a decision be taken in the light of the market situation inside and outside the Community to fix the refund for one or more products via a tendering procedure, it may be necessary ^{in order to make the tendering procedure more effective} to limit or to cancel altogether the refund fixed for such products in accordance with Article 17(2) of Regulation (EEC) No 804/68;

Whereas, if Community exporters are to be given some guarantee as to the stability of the refunds, provision should be made that, for each tendering procedure, ^{in advance} the period of validity of the export licence may be determined ^{in the light of} traders' requirements,

HAS ADOPTED THIS REGULATION:

Article 1

The following Articles 7a, 7b and 7c are hereby inserted in Regulation (EEC)

No 876/68:

"Article 7a

1. By way of derogation from the provisions of Article 5, the amount of the refund on bulk products falling within Common Customs Tariff heading 04.03 and sub-

heading 04.02 A II b) may be determined via a tendering procedure.

2. To take account of the availabilities of the products referred to in paragraph 1, tenders may be awarded in respect of maximum quantities to be determined on a case-by-case basis before the issue of the invitation to tender.
3. Where the amount of the refund is determined via a tendering procedure, the refunds fixed in accordance with Article 5(1) for the products and, where applicable, the destinations in question may be limited or cancelled altogether.

Article 7b

1. Participation in the tendering procedure may be made conditional on the lodging of a security to guarantee that the undertakings given by the exporter are carried out; the security shall be forfeited in whole or in part if the undertakings are not fulfilled or are only partially fulfilled.
2. The amount of the refund awarded under a tendering procedure shall be that proposed by the tenderer where this amount does not exceed the maximum amount to be fixed for each tendering procedure, each product and, where appropriate, each destination. Otherwise the proposal shall be rejected.

Article 7c

1. The ~~tenderers~~ to whom contracts are awarded shall receive an export licence showing the amount, fixed in advance, of the proposed refund. This amount may be adjusted in accordance with the last sub_paragraph of Article 5(3).
2. The period of validity of the licence referred to in paragraph 1 shall be that specified in the terms of the tendering procedure.
3. Where the terms of the tendering procedure contain a clause stipulating that the products in question must be exported to a particular destination, the latter

must be specified on the licence.

4. Licences issued in accordance with this Article shall not be transferable."

Article 2

This Regulation shall enter into force on the third day following its publication in the Official Journal of the European Communities.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels,

For the Commission